



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

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March 1, 2017

TECHNICAL STAFF REPORT

Hearing Examiner Hearing of March 9, 2017

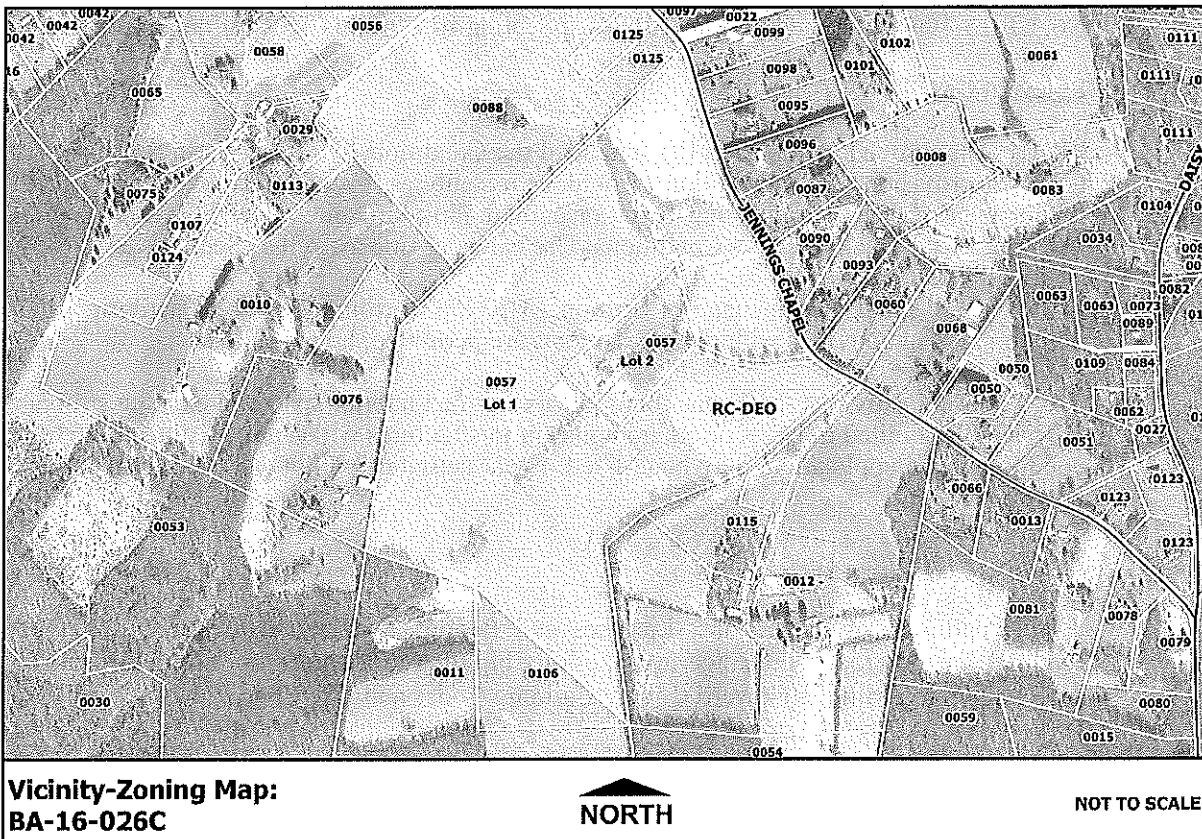
Case No./Petitioner: BA-16-026C F. Maxine Walker

Request: Modify Condition of Approval in BA 09-035C, Conditional Uses for Limited Outdoor Social Assemblies and an Antique Shop (Section 131.0.H.4)

Location: Fifth Election District
Southwest side of Jennings Chapel Road north of Daisy Road
Tax Map 20, Grid 10, Parcel 57, Lot 2 & p/o Lot 1, Harwood Farm Subdivision; 3666 Jennings Chapel Road (the "Property")

Area of Site: 10.518 acres (Lot 2) and p/o 134.89 acres (Lot 1); 10.713 total acreage of Conditional Uses; (the "Property" or the "Site")

Zoning: RC-DEO (Rural Conservation – Density Exchange Option)



I. MODIFICATION OF CONDITIONS OF APPROVAL PROPOSAL

The Petitioner operates a Limited Outdoor Social Assembly facility on Lot 2 as approved in BA 09-035C. The Conditional Use was approved subject to the following condition imposed by the Hearing Authority: “all assembly events shall be conducted outdoors only.” Additionally, Petitioner’s Exhibit #1 (Conditional Use Plan) contains a note (#7), which states: “There are no permanent structures proposed in conjunction with the Conditional Use”. The Petitioner is requesting removal of Note #7 on Exhibit # 1, through the Modification of Conditions of Approval process, to allow assembly events in 3,285 square feet of the existing bank barn/shed.

Subsequent to the approval of the Conditional Use, Zoning Regulation Amendment (ZRA) 154 amended the specific Conditional Use criteria in Section 131.0.N.33 to allow assembly events to occur in existing barns or similar farm structures over 50 years old. As a result of this decision, the Petitioner also requests to convert the existing 960 square foot shed, approved in the prior Board of Appeals case as an antique shop, into a bridal dressing room/family/gathering room.

The

II. BACKGROUND INFORMATION

A. Case History

The Hearing Authority granted Conditional Uses for Limited Outdoor Social Assemblies and an Antique Shop in Board of Appeals case 09-035C in May, 2010. An Opposition Appeal of the Decision and Order in that case affirmed the Hearing Authority’s granting of the Conditional Uses in a Decision and Order dated June, 2012.

A zoning complaint was filed with DPZ and a formal violation notice in Code Enforcement Case No. CE 15-100 was issued in July, 2015 (see Section III.C of this TSR for details).

Relevant Case History

ZRA 154 (approved October, 2015), amended the Conditional Use criteria in Section 131.0.N.33 to add a provision that in addition to outdoor assemblies, event activities be allowed to occur within interior spaces in existing barns or similar farm structures over 50 years old. The term “outdoor” was struck from the Conditional Use category title as well as Section 131.0.N.33.e.

ZRA 154 amended the language of Section 131.0.N.33.i from: “All event activities shall occur outdoors. Event activities within enclosed tents are permitted, however.”

To: “All event activities shall occur outdoors except that interior spaces in existing structures over 50 years old, limited to barns or other similar farm structures which are existing at the time of the conditional use application, may be utilized. Event activities within enclosed tents are permitted, however.”

B. Agency Comments

The Department of Inspections, Licenses and Permits commented that a building permit is required for the proposed change-in-use of any building to an assembly use. The use shall be in full compliance with the Howard County Building Codes and Fire Codes.

Prior to submittal of permit application, the Petitioner and their design consultant should arrange for a preliminary meeting with the Plan Review Division of the Department of Inspections, Licenses and Permits to discuss major code requirements as they pertain to the proposed use. Please contact the Plan Review Division at (410) 313-2436.

III. ZONING HISTORY

A. Case No.: BA 09-035C

Petitioner: Robert and F. Maxine Walker

Request: Conditional Uses for Limited Outdoor Social Assemblies and an Antique Shop

Action: Granted, May 10, 2010 subject to 16 conditions:

1. The Petitioners shall amend the Conditional Use Plan to note the total area of the limited outdoor social assembly use.
2. The Petitioners shall amend the Conditional Use Plan to depict the location of the assembly use area.
3. The Petitioners shall amend the Conditional Use Plan to depict the location of the well and septic area.
4. The Petitioners shall amend the Conditional Use Plan to demonstrate compliance with Section 133.C.1.d., which requires parking provisions to accord with the Americans Disabilities Act ("ADA accessible") and the Maryland Accessibility Code.
5. The Petitioners shall amend the Conditional Use Plan with a note stating how refuse for the limited outdoor social assembly use will be handled for individual events.
6. The Petitioners shall amend the Conditional Use Plan with a note detailing a traffic management plan for individual limited outdoor social assembly events. This plan shall address the management of traffic entering and leaving the driveway to ensure there will be no increased hazards to Jennings Chapel Road and the internal traffic flow within the site and along the long driveway. The traffic management plan is subject to revision by the Department of Planning and Zoning's Subdivision Review Group.
7. The Petitioners shall amend the Conditional Use Plan to eliminate the Outdoor Limited Social Assembly Possible Event Area 1.
8. No tent wall used in conjunction with an individual limited outdoor assembly use shall be tied back where the wall faces northeast, east and southeast (toward Jennings Chapel Road).
9. Individual limited outdoor social assembly events shall comply with the Howard County noise ordinance.
10. All amplified music for an individual limited outdoor social assembly use shall end by 10:00 p.m. on Friday and Saturday nights.
11. All aspects of an individual limited outdoor social assembly use, including setups and cleanups, shall comply with the approved hours of operation, which are: Monday-Thursday, 9:00 a.m. to 10:00 p.m.; Friday and Saturday, 12:00 p.m. to 12:00 a.m., and Sunday, 12:00 p.m. to 10:00 p.m.
12. Neither the antique shop nor the limited outdoor social assembly use shall operate during the Howard County - Iron Bridge Hounds Opening Day Meet and Blessing of the Hounds.
13. The limited outdoor social assembly use shall not commence (no individual assembly use may be held) until the Petitioners have demonstrated compliance with all federal, state and county laws and regulations and obtained all permits necessary for the start up of the use. The Department of Planning and Zoning's Subdivision Review Group is charged with coordinating the review of the Petitioner's post-decision obligations. The Petitioners' failure to comply with the condition shall result in the voidance of the grant of approval for the limited outdoor social assembly use.
14. The Petitioners shall obtain all required permits for individual limited outdoor social assembly events or verify that the appropriate party has obtained such permits before the event.

15. Each individual limited outdoor social assembly event is limited to 150 attendees with a maximum of 25 events in a one-year period. All food and beverage service will be catered by third-party independent caterers. All tents, spot-a-pots and other uses will be removed from the site within three days after the event.
16. Low-level temporary lighting shall be used for individual limited outdoor social assembly events, including lighting under tents and along grass pathways between the seating, restroom and parking areas.

B. Case No.: BA 09-035C

Petitioner: Robert and F. Maxine Walker

Request: Opposition appeal of Decision and Order of Board of Appeals Hearing Authority for Conditional Uses for Limited Outdoor Social Assemblies and an Antique Shop

Action: Granted, June 12, 2012 subject to five conditions:

1. The Conditional Use Plan shall apply to the proposed Limited Outdoor Social Assemblies and Antique Shop, as described in the petition and Conditional Use plan submitted on February 11, 2011 to the Board as Petitioner's Exhibit #1, and not to any other activities, uses, or structures on the subject property.
2. The Petitioners shall maintain a web site where an event schedule is posted.
3. The Petitioner shall provide traffic management at the driveway entrance at the beginning and end of each event, where 50 or more persons are expected to attend.
4. The 20' x 60' fire truck pullover area shown on Petitioner's Exhibit #1 shall be surfaced in a manner satisfactory to the Howard County Department of Fire and Rescue Services.
5. The Petitioners shall comply with all applicable Federal, State, and County laws and regulations.

C. Case No.: CE 15-100

Action: Formal notice issued July 22, 2015 for: 1) the expansion of an approved Conditional Use (limited outdoor social assemblies) Board of Appeals Decision and Order BA 09-035 (event activities occurring outside of the approved areas, use of existing structures for event activities/bridal preparation room) and 2) maintaining more than one single-family detached dwelling (second dwelling is not being utilized for a farm tenant but a rental property).

Status: Open

IV. EVALUATION AND CONCLUSIONS

A. Evaluation of petition according to Section 131.0.H.4 (Conditions of Approval):

The property owner or Conditional Use holder may petition the Hearing Authority for modification of conditions imposed in a Decision and Order approving a Conditional Use, in accordance with the following procedures:

- a. *A petition for modification of conditions shall be submitted in the same format and include the same information as a Conditional Use petition, clearly indicating the approved Conditional Use, the requested modifications, and the reasons for the request.*

The Petitioner requests a Modification of Conditions of Approval to remove Note #7 of Petitioner's Exhibit #1 in BA 09-035C which states, "There are no permanent structures proposed in conjunction with the Conditional Use".

The Petitioner contends that ZRA 154 allows events to occur inside of qualifying farm structures, therefore; removal of Note #7 is necessary to reflect this change. However, the proposed Conditional Use Plan depicts an enlargement of the use into structures that were not approved in BA 09-035C. The structures include 3,285 square feet of an existing barn to be used for assembly events and a 960 existing shed proposed for a bridal dressing room. Also, Note #10 of Petitioner's Exhibit #1 concerning the antique shop hours has been removed and several plan notes have been altered but this is not mentioned in the petition.

In a letter dated October 12, 2016, the Department of Planning and Zoning advised the Petitioner that a Petition to Modify Conditions of Approval is to be used only to remove or modify enumerated conditions imposed in a Decision and Order and is not applicable to a note on a Petitioner's Exhibit.

Furthermore, DPZ advised the Petitioner that the proposed elimination of Note #7 on the Conditional Use Plan increases the area of the approved Conditional Use and thus triggers the requirements of Section 131.0.J of the Howard County Zoning Regulations- Enlargement of Alteration of a Conditional Use. DPZ recommended that the request be resubmitted using the Conditional Use Petition form in accordance with Section 131.0.J; however, the Petitioner did not revise the submission.

Finally, as indicated in Department of Inspections, Licenses and Permits' comments, the proposed change in use to an assembly use, requires compliance with Howard County Building and Fire Codes. It is likely that structures will need to be "altered" to meet Building and Fire Code requirements, further suggesting that application of Section 131.0.J is appropriate.

DPZ considers the request to be an enlargement/alteration of an approved Conditional Use subject to the requirements of Sections 131.0.N.33/131.0.J. and recommends Denial of the request.

- b. A petitioner shall certify that a copy of a request for modification of a condition to a Conditional Use Decision and Order has been sent by certified mail to adjoining property owners identified in the records of the Maryland Department of Assessments and Taxation and the parties of record, whose addresses shall be maintained by the secretary to the Hearing Authority.*

The original copy of the petition includes copies of Certified Mail Receipts; however, there is no documentation as to the content of the information which accompanied the mailings. The Petitioner shall provide documentation of compliance with this section to the satisfaction of the Hearing Authority if the petition is granted.

- c. The Hearing Authority shall hold a public hearing in accordance with the procedures for a Conditional Use petition. The public hearing shall be limited to consideration of the modification requested by the petitioner.*

A public hearing is scheduled for March 9, 2017.

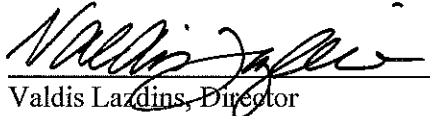
- d. The Hearing Authority shall issue a written decision either upholding or modifying a condition imposed in the original Decision and Order.*

- e. *After a decision is made, a new petition requesting modification of any of the conditions of approval shall not be accepted for at least 24 months after the date of the decision modifying or upholding the conditions of the original Decision and Order.*

V. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends that the request for a Modification of Conditions of Approval to remove Note #7 of Petitioner's Exhibit #1 in BA 09-035C be **DENIED**.

Approved by:

 3-1-17
Valdis Lazdins, Director Date

NOTE: The file is available for public review by appointment at the Department of Planning and Zoning Public Information Counter.

DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS

DATE: February 14, 2017

TO: Department of Planning and Zoning
Division of Land Development

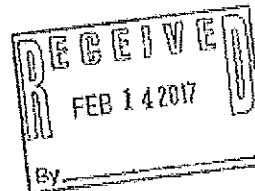
FROM: Department of Inspections, Licenses and Permits
Plan Review Division

RE: DPZ File No. BA 16-026C
Name of Plan F. Maxine Walker



The petitioner shall be advised that a building permit is required for this proposed "change-in-use" of any building to an assembly use. The use of any building/structure shall be in full compliance with the Howard County Building Codes and Fire Codes.

Prior to submittal of permit application, the petitioner and their design consultant should arrange for a preliminary meeting with the Plan Review Division of the Department of Inspections, Licenses and Permits to discuss major code requirements as they pertain to the proposed use. Please contact the Plan Review Division at (410) 313-2436.



James. D. Hobson
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